



**OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA
BOARD OF CEMETERIANS**

IN THE MATTER OF

Oaknoll Memorial Gardens LLC

Respondent.

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Case Number: ENCE-0381

NOTICE OF OPPORTUNITY FOR HEARING

**TO: Oaknoll Memorial Gardens LLC
549 Shorter Avenue
Rome, GA 03165**

PLEASE TAKE NOTICE that the Secretary of State of the State of Georgia ("Secretary") by and through the State Board of Cemeterians ("Board") intends to issue the Proposed Order ("Order") attached hereto to **Oaknoll Memorial Gardens LLC** ("Respondent," "Oaknoll," or "Cemetery") pursuant to the Georgia Cemetery and Funeral Services Act of 2000, O.C.G.A. § 10-14-1, *et seq.* ("Act"). The Order is being proposed based on information known to the Secretary at the time this Notice of Opportunity for Hearing was issued and may be amended or modified at any time prior to its entry.

Pursuant to O.C.G.A. § 10-14-23, Respondent is hereby notified that within ten (10) days after receipt of a request for a hearing in a record from Respondent, this matter will be scheduled for a

hearing unless another date and time is otherwise agreed to by the parties. If Respondent does not request a hearing and none is ordered by the Secretary within ten (10) days after the date of service of this Order, this Order will become final as to Respondent by operation of law. If a hearing is requested or ordered, the Secretary, after notice of opportunity for hearing to Respondent, may modify or vacate this Order or extend it until final determination.

1. GROUNDS. The grounds for the issuance of this Order are that Respondent engaged in conduct in violation of O.C.G.A. § 10-14-17.

2. REQUEST FOR HEARING. Pursuant to O.C.G.A. § 10-14-23, this Order may be entered by the Secretary unless Respondent requests a hearing within ten (10) days of receipt of this notice. A request for hearing may be delivered to the attention of Noula Zaharis, Director, Office of the Secretary of State, Securities and Charities Division, 2 Martin Luther King Jr. Dr., SE, Suite 317 West Tower, Atlanta, GA 30334 or by electronic mail at nzaharis@sos.ga.gov.

3. PROCEDURE FOR REQUESTING A HEARING. If the Respondent requests a hearing, the request for hearing must be in writing and contain the following information as required by Rule 590-3-1-.05 of the Rules of Office of Secretary of State (hereinafter, the “Rule” or “Rules”):

- a title which indicates the nature of the proceedings;
- the complete name and address of the person or persons on whose behalf the request is filed;
- the name and address of all other persons known to have a legal interest in the proceedings;
- if the person or persons on whose behalf the request is filed are represented by counsel, the name and address of counsel;
- a clear and concise statement of the facts upon which the contested case arises;
- a prayer setting forth the relief sought; and
- a statement of the grounds upon which the person contends he is entitled to the relief sought.

4. SCHEDULING OF HEARING. If requested, a hearing will be scheduled before a Hearing Officer appointed by the Secretary, the ultimate decision maker in this matter, in no less than fifteen (15) days but not earlier than five (5) days after the request is made, unless otherwise agreed to by the parties.

5. ISSUES TO BE ADDRESSED. If a hearing is requested, the issues to be addressed are set forth in the attached Order that is incorporated herein by reference and made a part of this Notice of Opportunity for Hearing.

6. CONTESTED CASES. This is a contested case proceeding and pursuant to the Rules it shall be conducted as expeditiously as possible, with regard to the rights of the parties, and in a manner to enable the parties to obtain relevant information needed for preparation of the case to the extent that such disclosure is authorized or required by law.

7. LEGAL AUTHORITY AND JURISDICTION. This Notice of Opportunity for Hearing is issued pursuant to O.C.G.A. § 43-17-23, Rule 590-3-1-.05, and O.C.G.A. § 50-13-1 *et seq.* (The Georgia Administrative Procedure Act).

8. INFORMAL CONFERENCE. Respondent may request an informal conference with the Division Director pursuant to Rule 590-3-1-.05. The receipt of a written request for an informal conference will toll, until the date that such conference is scheduled, the running of the time for requesting and setting a hearing. A request for hearing that does not contain the required information as outlined above will be treated as a request for an informal conference. Further information regarding an informal conference may be obtained by contacting Noula Zaharis at (470) 312-2787 or nzaharis@sos.ga.gov.

9. RIGHTS OF PARTIES. The parties to this matter shall have all of the rights provided for


in the Act, the Rules and the Georgia Administrative Procedure Act, including but not limited to the following:

- To subpoena witnesses and documentary evidence;
- To secure testimony by deposition or interrogatories if authorized or directed by the Hearing Officer;
- To be represented by legal counsel; and
- To respond and present evidence on all issues involved.

SO ORDERED this 25th day of May 2021.

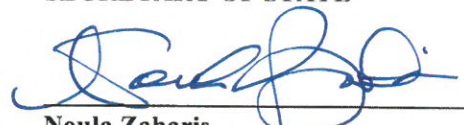
BOARD OF CEMETERIANS

By:


Richard Parker
Chairman

**BRAD RAFFENSPERGER
SECRETARY OF STATE**

By:


Noura Zaharis
Director
Securities and Charities Division



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STATE OF GEORGIA
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IN THE MATTER OF

Oaknoll Memorial Gardens LLC

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Case Number: ENCE-0381

ORDER TO CEASE AND DESIST AND IMPOSITION OF CIVIL PENALTY

This matter comes before the Secretary of State of the State of Georgia ("Secretary") by and through the Board of Cemeterians ("Board") pursuant to the authority granted in O.C.G.A. § 10-14-14, *et seq.* of the Georgia Cemetery and Funeral Services Act of 2000, as amended ("Act"). Whereas, the Secretary undertook an investigation into the acts and practices of Oaknoll Memorial Gardens LLC ("Oaknoll," "Respondent," or "Cemetery").

Based on the investigation, the Secretary has found grounds to conclude that Respondent may have engaged in acts or practices constituting violations of the Act. The Secretary has determined it is in the public interest to issue this Order.

Based upon information obtained during the investigation, the Secretary finds as follows:

FINDINGS OF FACT

1. Oaknoll is located at 2549 Shorter Avenue, Rome, Georgia 30165.
2. Oaknoll is registered with the Secretary and Board as a Perpetual Care Cemetery pursuant to O.C.G.A. § 10-14-3(28). Oaknoll has been registered as a Perpetual Care Cemetery since August 1, 2011.

3. Oaknoll lists its Perpetual Care Trust address as 3600 Horizon Blvd, Suite, 100, Feasterville Trevose, Pennsylvania 19053. Oaknoll lists Diana Burkholtz as its Owner/Manager, as well as its Director of Trust.

4. In March 2021, the Division received a tip from the Rome, Georgia office of the 11Alive new network, alleging a series of care and maintenance failures.

5. Among these alleged care and maintenance violations, 11Alive provided a link to a Facebook group devoted to complaints regarding the care and maintenance of Oaknoll, along with two (2) other Rome, Georgia cemeteries. According to the Facebook group's "about" section, it was created on May 16, 2017. The Facebook group can be found at <https://www.facebook.com/groups/621354228063688>. Complaints against Oaknoll on the Facebook page include, but are not limited to:

- a. Unkempt and uncut grass, including unmanaged weeds;
- b. Barren and bare areas of the grounds with no grass growing at all;
- c. Areas in the grounds bearing damage from vehicles and heavy machinery;
- d. Damaged, broken, and toppled headstone markers and monuments;
- e. Trash littering the grounds; and
- f. Sunken graves and headstone markers.

6. According to statements made by visitors of Oaknoll made on the Facebook group, Oaknoll has failed to properly address these care and maintenance complaints, despite being alerted to their existence.

7. On March 22, 2021, the Securities and Charities Division ("Division") sent an inspector from the Secretary's office to inspect the site and report on the condition of Oaknoll's care and maintenance. The inspector took over five hundred (500) photos ("Photo(s)") of the Cemetery and submitted a questionnaire to Oaknoll to address the inspector's findings. The inspector's findings are described in detail below.

a. Grounds

8. The inspector found the Oaknoll grounds in poor condition. The inspector reported many bare patches of grass, which contained little to no sign of treatment, such as the presence of new grass seed, sod, or hay. The inspector also reported that the grass needed cutting and weed management performed. The inspector noted that weeds were an issue for much of the grounds, including areas where the weeds were completely out of control.

9. The inspector also reported areas of the grounds damaged by track marks made by vehicles and heavy equipment caused by workers driving across the grounds as a shortcut rather than traveling around the grounds on asphalt roadways.

10. The inspector reported trash littering the grounds, particularly along the areas of the grounds lining the woods. The inspector also reported other impediments littering the grounds, such as old flowers and discarded gloves. The inspector observed maintenance works moving along the property to prep for a funeral service and noted that none of them stopped to pick up any trash or debris.

11. The Photos provided by the inspector support his findings. The Inspector provided seventy (70) Photos which show large areas of barren and bare grass, which contain no signs of restorative measures, such as grass seed, hay, or sod. In fact, several Photos show areas surrounding graves that are almost completely barren. Other Photos of the grounds show areas with cheap, rocky, arid soil that appears unfit for the purpose of growing new grass.

12. Other Photos of the grounds demonstrate Oaknoll's failure to provide minimal landscaping for the Cemetery. Photos show grass that is unhealthy and uneven. More concerning, Photos show infestations of weeds throughout the entirety the grounds. In fact, no less than nineteen (19) Photos appear to show areas where weeds have grown several feet tall, indicating an egregious disregard for treating the grounds.

13. Multiple Photos show large areas of damaged grounds bearing track marks, indicating that Oaknoll allowed heavy machinery to cut across the grass rather than travel along the Cemetery's road system. Other Photos show trash littering the grounds, such as crush water bottles and dead flowers, particularly along the edges of the grounds. One (1) particular Photo shows dead and discarded flowers in a large pile immediately adjacent to several gravesites.

b. Graves

14. As with the condition of the grounds, the inspector observed that gravesites were in poor condition. The inspector noted that several graves were sinking or settling on the grounds. Further, the inspector noted that very few of these sunken graves appeared to have new sod or fill dirt to relevel sunken graves.

15. Many of the Photos show graves similarly covered in rocky, arid soil with no signs of grass growing or attempts to grow grass. For example, one such grave's marker bears an internment date of 2008, indicating that the conditions of the grass covering it had been neglected for an extended

period of time. Another Photo shows a grave that is also covered rocky, arid soil with no vegetation growing on the gravesite, save a few clusters of weeds, indicating that the grass covering it had likewise been neglected for an extended period of time.

16. Further, Photos demonstrate a substantial number of sunken graves. Most Photos show graves that have sunken two to three inches that nonetheless bear no indication of corrective measures taken by Oaknoll. Several Photos, however, depict excessive degrees of grave sinking that indicate a blatant disregard for the care and maintenance of graves. For example, one such Photo shows a grave that has sunken nearly a whole foot and to such a degree that inside borders of the grave from its initial excavation are clearly visible. Several other Photos show another grave that appears to have collapsed in on itself.

c. Headstones, Markers, and Monuments

17. The inspector observed numerous issues with the conditions of headstones, markers, and monuments, going as far as to describe these care and maintenance issues as “rampant.” The inspector observed numerous markers that had been soiled and obscured by mud and caked dirt. The inspector also observed that many headstones and markers were unlevel, indicating that they were in the process of sinking.

18. Most notably, the inspector reported many broken markers and headstones that appeared to have been damaged by Oaknoll’s maintenance crew. The inspector noticed tire tracks over broken markers, indicating that heavy machinery had been driven over them.

19. Photos provided to the Division support the inspector’s findings. Numerous Photos display unlevel markers in the process of sinking. For example, several Photos show sinking around one (1) marker that is so severe that not only is the entire bottom of the marker exposed, but a noticeable gap beneath the marker is also visible.

20. Other Photos demonstrate markers and headstones that are damaged or in a state of disrepair. Many Photos show markers that broken down the middle with the name plates on top bent and curled as if crushed by a heavy object. Indeed, several photos show track marks leading directly to markers or over markers, indicating that Oaknoll allowed vehicles or heavy equipment to drive directly over markers.

21. Other Photos show markers that appear to be soiled or obscured due to the negligence of Oaknoll’s maintenance staff. Many photos contain markers that are caked with dirt and mud so

that the names on them are not legible. In one particularly egregious example, a Photo shows a marker that is nearly completely buried under a mound of fill dirt.

d. Roadways

22. The inspector observed the roads in similarly poor condition. The inspector reported several potholes, broken curbs, and muddy asphalt throughout Oaknoll's entire road system. Further, the inspector noted that areas of the roadway that appeared to have been resurfaced were in poor condition, indicating that the repairs either had been done so poorly as to not hold, or had been done so long ago as to have worn out. The inspector also found evidence of a potential drainage issue throughout the Cemetery's road system, resulting in standing water and orange mud staining.

23. The Photos provided by the inspector show Oaknoll's roads to be in a such a state of disrepair that many sections appear to be unnavigable. Cracked and uneven asphalt runs through the entire road system, the asphalt appears to be cracked an uneven. One (1) Photo shows an intersection where a road completely eroded, severing it from the rest of the intersection. Numerous photos show deep potholes, many filled with standing water. No permanent reparative measures appear to have been taken, such as filling potholes with new asphalt, nor does it appear the Cemetery has taken temporary remedial measures to address potholes, such as filling them with gravel or quick-drying cement.

e. Questionnaire

24. As a part of his inspection, the inspector submitted a questionnaire to Oaknoll prepared by Division. The questionnaire requested information regarding what systems, if any, Oaknoll has in place for the purpose of processing complaints by the Cemetery's visitors as well as what systems, if any, the Cemetery uses for logging and addressing care and maintenance work orders. To this date, Oaknoll has failed to provide any response to the Division pursuant to the submitted questionnaire.

CONCLUSIONS OF LAW

25. Paragraphs 1 through 24 are incorporated by reference as though fully set forth herein.

26. The Secretary has jurisdiction over this matter pursuant to the Act. *See* O.G.C.A. §§ 10-14-14 and 10-14-19.

27. Pursuant to O.C.G.A. § 10-14-19(a)(1) of the Act, if the Secretary determines:

that any person has engaged in, or is engaging in, or is about to engage in any act or practice or transaction which is prohibited by this chapter or by any rule, regulation, or order of the Secretary of State promulgated or issued pursuant to any Code section of this chapter or which is declared to be unlawful under this chapter, the Secretary of State may...[i]ssue an order, if he or she deems it to be appropriate in the public interest or for the protection of consumers, prohibiting such person from continuing such act, practice, or transaction, subject to the right of such person to a hearing as provided in Code Section 10-14-23.

28. Pursuant to O.C.G.A. § 10-14-19(f) the Secretary is authorized to impose a “civil penalty not to exceed \$10,000.00 for a single violation and not exceeding \$100,000.00 for multiple violations in a single proceeding or a series of related proceedings.”

29. Respondent Oaknoll is registered with the Division as a perpetual care cemetery pursuant to O.C.G.A. § 10-14-4. Thus, Oaknoll is subject to discipline under the Act.

30. Pursuant to O.C.G.A. § 10-14-17(i), “[i]t shall be unlawful for any owner or operator of a perpetual care cemetery to fail to provide care and maintenance for the cemetery.”

31. Pursuant to O.C.G.A. § 10-14-3(6):

“Care and maintenance” means the perpetual process of keeping a cemetery and its lots, graves, grounds, landscaping, roads, paths, parking lots, fences, mausoleums columbaria, vaults, crypts, utilities, and other improvements, structures, and embellishments in a well cared for and dignified condition, so that the cemetery does not become a nuisance or place of reproach and desolation in the community. As specified in the rules of the Secretary of State, care and maintenance may include, but is not limited to, any or all of the following activities: mowing the grass at reasonable intervals; raking and clearing the grave spaces and adjacent areas; pruning of shrubs and trees; suppression of weeds and exotic flora; and maintenance, upkeep, and repair of drains, water lines, roads, buildings, and other improvements. Care and maintenance may include, but is not limited to, reasonable overhead expenses necessary for such purposes, including maintenance of machinery, tools, and equipment used for such purposes. Care and maintenance may also include repair or restoration of improvements necessary or desirable as a result of wear, deterioration, accident, damage, or destruction. Care and maintenance does not include expenses for the construction and development of new grave spaces or interment structures to be sold to the public.

32. Respondent Oaknoll has engaged in a persisting and systemic failure to provide for care and maintenance for the cemetery. Oaknoll has not provided landscaping for the cemetery grounds, including failing to reasonably maintain the grass and failing to properly treat the grounds for weeds. Since at least 2017, Oaknoll has failed to take the proper

measures to correct these care and maintenance issues, despite being repeatedly alerted to their existence.

33. Oaknoll has further failed to provide for care and maintenance for the Cemetery by failing to repair and mend the ground from damage caused by allowing vehicles and other heavy machinery to drive across its grounds. Since at least 2017, Oaknoll has failed to take the proper measures to correct these care and maintenance issues, despite being repeatedly alerted to their existence.

34. Oaknoll has further failed to provide for care and maintenance for the Cemetery by failing to maintain the Cemetery's road system and for its failure to repair potholes, fissures, and other deterioration and erosion in the road system. Since at least 2017, Oaknoll has failed to take the proper measures to correct these care and maintenance issues, despite being repeatedly alerted to their existence.

35. Oaknoll has further failed to provide for care and maintenance for the Cemetery by failing to keep its graves in a dignified condition by allowing graves to sink and become bare, and has failed to provide remedial maintenance to return graves to a dignified condition. Since at least 2017, Oaknoll has failed to take the proper measures to correct these care and maintenance issues, despite being repeatedly alerted to their existence.

36. Oaknoll has further failed to provide for care and maintenance for the Cemetery by failing to repair damage caused to markers and headstones by Oaknoll's care and maintenance staff. Since at least 2017, Oaknoll has failed to take the proper measures to correct these care and maintenance issues, despite being repeatedly alerted to their existence.

37. These activities described in paragraphs 32 through 36 are violations of O.C.G.A. § 10-14-17(i). These violations are actionable events pursuant to O.C.G.A. § 10-14-19; therefore, Respondent is subject to discipline.

ORDER

WHEREFORE, by the authority vested in me as the Secretary of State for the State of Georgia, **IT IS HEREBY ORDERED**:

1. That **OAKNOLL MEMORIAL GARDENS LLC** immediately **CEASE AND DESIST** all violations of the Georgia Cemetery and Funeral Services Act of 2000, as amended.

2. **OAKNOLL MEMORIAL GARDENS LLC** pay a **civil penalty** in the amount of one hundred thousand dollars (\$100,000.00). This civil penalty is payable to the Secretary within thirty (30) days of the finalization date of this order.

3. **OAKNOLL MEMORIAL GARDENS LLC** remit payment of the Secretary's **cost of investigation** in the amount of two thousand dollars (\$2,000.00) to the Secretary due within thirty (30) days of the entry of a Final Order by the Secretary.

The entry of the Order is deemed to be in the public interest and shall not be deemed to constitute findings or conclusions relating to other persons unrelated to Respondent and shall not be deemed to be a waiver or estoppel on the part of the Secretary from proceeding in individual actions against any person who may have violated the Act or any transactions not specifically referred to herein or not known to the Secretary at the time this Order was issued.

SO ORDERED this ____ day of _____ 2021.

BOARD OF CEMETERIANS

BRAD RAFFENSPERGER
SECRETARY OF STATE

By: _____
Richard Parker
Chairman

By: _____
Noula Zaharis
Director
Securities and Charities Division